

1 BEFORE THE
2 ILLINOIS COMMERCE COMMISSION

3
4 BENCH SESSION

5 (PUBLIC UTILITY)

6
7 Chicago, Illinois
8 Thursday, December 2, 2010

9
10 Met, pursuant to notice, at 10:30 a.m. in
11 N901, Eighth Floor, 160 North LaSalle Street,
12 Chicago, Illinois.

13
14 PRESENT:

15 MANUEL FLORES, Acting Chairman

16 LULA M. FORD, Commissioner

17 ERIN M. O'CONNELL-DIAZ, Commissioner

18 SHERMAN J. ELLIOTT, Commissioner
19 via videoconference

20 JOHN T. COLGAN, Acting Commissioner
21 via videoconference

22 SULLIVAN REPORTING COMPANY, by
 Alisa A. Sawka, CSR
 License No. 084-004588

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

PROCEEDINGS

ACTING CHAIRMAN FLORES: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regularly scheduled Bench session of the Illinois Commerce Commission. With me in Chicago are Commissioners Ford and O'Connell-Diaz, with us in Springfield are Commissioners Elliott and Colgan. I am Chairman Flores. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of the Illinois Administrative Code, this is the time we allow the members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's Office at least 24 hours prior to the Bench session. According to the Chief Clerk's Office, we have no requests to speak at today's.

Bench session.

(The Transportation portion of the proceedings was held at this time and is contained in a separate transcript.)

1 ACTING CHAIRMAN FLORES: We're now moving
2 forward to the Public Utility agenda. I will start
3 with approval of the minutes from the November 4th
4 Bench session. I understand that amendments have
5 been forwarded.

6 And I will make a motion to amend the
7 minutes.

8 Is there a second?

9 COMMISSIONER O'CONNELL-DIAZ: Second.

10 ACTING CHAIRMAN FLORES: It's been moved and
11 seconded.

12 All in favor, say "aye."
13 (Chorus of ayes.)

14 ACTING CHAIRMAN FLORES: Any opposed?
15 (No response.)

16 ACTING CHAIRMAN FLORES: The vote is 5-0 and
17 the amendments are approved.

18 Is there a motion to approve the -- I
19 will make a motion to approve the minutes as amended.

20 Is there a second?

21 COMMISSIONER O'CONNELL-DIAZ: Second.

22 ACTING CHAIRMAN FLORES: It's been moved and

1 seconded.

2 All in favor, say "aye."

3 (Chorus of ayes.)

4 ACTING CHAIRMAN FLORES: Any opposed?

5 (No response.)

6 ACTING CHAIRMAN FLORES: The vote is 5-0

7 approving the minutes for November 4th as amended.

8 Beginning with the electric agenda,

9 Item E-1 concerns Mt. Carmel -- excuse me --

10 Docket 10-0681, Mt. Carmel Utility Company's fuel

11 adjustment charge reconciliation. Staff recommends

12 entry of an Order initiating a fuel adjustment clause

13 reconciliation proceeding for the utility.

14 I will make a motion to enter the

15 Order.

16 Is there a second?

17 COMMISSIONER O'CONNELL-DIAZ: Second.

18 ACTING CHAIRMAN FLORES: It's been moved and

19 seconded.

20 All in favor, say "aye."

21 (Chorus of ayes.)

22 ACTING CHAIRMAN FLORES: Any opposed?

1 (No response.)

2 ACTING CHAIRMAN FLORES: The vote is 5-0. The
3 Order is entered and the reconciliation proceeding is
4 initiated.

5 We will use this 5-0 vote for the
6 remainder of the public utilities agenda unless
7 otherwise noted.

8 Item E-2, Docket 10-0682, concerns
9 initiating another reconciliation proceeding;
10 specifically, MidAmerican Company's energy efficiency
11 and cost recovery riders. Staff recommends entry of
12 an Order initiating a reconciliation proceeding for
13 the utility.

14 Is there any discussion?

15 (No response.)

16 ACTING CHAIRMAN FLORES: Any objections?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Hearing none, the
19 Order is entered and the proceeding is initiated.

20 Item E-3 is Docket 09-0080. This is
21 ComEd's reconciliation proceeding for the
22 reconciliation revenues collected under power

1 procurement riders with actual costs associated with
2 power procurement expenditures. Administrative Law
3 Judge Jones recommends entry of an Order approving
4 the reconciliation.

5 Is there any discussion?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Any objections?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Hearing none, the
10 Order is entered.

11 Item E-4 is Docket No. 10-0413. This
12 is Kenny Smith's complaint as to billing and/or
13 charges against ComEd. Administrative Law Judge
14 Teague recommends entry of an Order dismissing the
15 complaint with prejudice.

16 Is there any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the
21 Order is entered and the complaint is dismissed.

22 Item E-5 is Docket No. 10-0543. This

1 is James Spina and Jamochs Caffé Corporation's
2 complaint as to billing and/or charges against ComEd.
3 And the parties have apparently settled their
4 differences and brought a Joint Motion to Dismiss,
5 which Administrative Law Judge Gilbert recommends
6 that we grant.

7 Any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the
12 docket is dismissed.

13 Item E-6 is Docket No. 10-0549. This
14 is MC Squared Energy Services' Application to amend
15 its Certificate of Service Authority to allow it to
16 serve all eligible retail customers in ComEd's
17 service territory. Administrative Law Judge Yoder
18 recommends that the Commission enter an Order
19 granting the requested relief.

20 Any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the
3 Order is entered.

4 Item E-7 is Docket No. 10-0597. This
5 item concerns a Petition for Special Permission filed
6 by ComEd regarding a request to revise its tariff
7 sheets on less than 45 days' notice. Here, the
8 request concerns the Company ceasing to collect
9 operating expenses under its Rider AMP consistent
10 with a recent Appellate Court decision and its
11 ability to seek recovery of costs associated with its
12 AMI pilot in its ongoing rate case.

13 Any discussion on this matter?

14 COMMISSIONER ELLIOTT: Yeah, Mr. Chairman, I
15 have asked some questions of John Kelliher. I
16 appreciate the quick turnaround on John's response.

17 This has been quite confusing to me
18 about what this tariff modification is actually
19 accomplishing. And from my perspective I'm still
20 unclear as to whether or not it's -- the modification
21 to the tariff requested in the special permission is
22 consistent with the Court decision and the recent

1 ComEd remand.

2 So from that perspective I think I'm
3 either going to abstain or vote no on this. So I'd
4 like to request a roll call. I appreciate it.

5 ACTING CHAIRMAN FLORES: Any further discussion
6 on this matter?

7 Commissioner Elliott, do we have
8 Mr. Kelliher here?

9 Did you have -- I mean, Mr. Kelliher
10 was -- I know Mr. Kelliher has provided an
11 explanation. I mean, do you have a question for him
12 now consistent with what has already been explained?
13 As a matter of fairness -- I would just say, as a
14 matter of fairness, if it's a new question or
15 questions that hadn't been posed, I would just ask
16 that -- I mean, I want to make sure that
17 Mr. Kelliher's prepared to -- in fairness to
18 Mr. Kelliher -- to be able to answer questions.

19 But I think -- I have reviewed the
20 memo and my Staff's reviewed the memo. I think it's
21 pretty clear what this particular special permission
22 filing is about. I mean, I think it's also important

1 to note that we are dealing with some special
2 circumstances here, in that this comes about from an
3 Appellate Court decision, as I indicated in my
4 earlier remarks, that basically, you know, created
5 this condition, if you will.

6 That being said, I think that we have
7 to undertake this action in order to be consistent
8 with the practice of how the tariff sheets are
9 treated. So I look at this as an actual
10 procedural -- more of a procedural issue here to make
11 sure that we are in line with both what the ICC has
12 to do in review of these kinds of cases, but also be
13 in line with what the Appellate Court decision -- the
14 Appellate Court has held in this matter.

15 But to the point that -- to the extent
16 that there may need -- that we have a need for
17 further clarification, I think Mr. Kelliher could
18 explain in further -- could explain it in terms of
19 what he has explained already in his memo.

20 COMMISSIONER ELLIOTT: Well, I guess my
21 question would be if there's any action taken by the
22 Commission relative to recovery of costs associated

1 with this consistent with the Court decision, it's to
2 stop all recovery of costs. And in my mind this
3 memo -- or this special permission does not do that.
4 It, in fact, extends recovery of costs of certain
5 costs from the date of the Court decision through
6 December of this year. And in my mind I just don't
7 find that to be consistent with the keeping of the
8 court's remand -- or the reversal.

9 ACTING CHAIRMAN FLORES: Mr. Kelliher, could
10 you -- just again, in terms of the explanation that
11 you provided -- just so that everyone's clear.

12 MR. KELLIHER: Right. I mean, I think that
13 Illinois law is clear that once a Commission Order is
14 overturned, that the utility not only is entitled to
15 continue charging under the reversed tariffs but also
16 it's required to unless and until the Commission
17 entered a different rate Order.

18 And the way I view this special
19 permission tariff is that it is -- it is not coming
20 up with a new tariff to continue. It's only
21 stripping off the recovery of certain of the costs
22 that the Court found shouldn't have been part of the

1 rider.

2 So it's kind of an -- it's a voluntary
3 decision on the Utility's part not to recover these
4 costs that they are otherwise entitled to recover
5 subject to refund during the period of time in
6 between when the matter comes back to the Commission
7 and a new rate Order goes in effect.

8 COMMISSIONER ELLIOTT: And maybe this isn't a
9 question for you, but it's a question in my mind. Is
10 it all costs under the rider or just a portion?

11 MR. KELLIHER: I believe it's just the
12 operating expenses and it's not the capital costs,
13 the carrying charges. And that's why I -- they're
14 continuing recovery under the capital costs, but
15 they're deciding not to on the operating expenses and
16 they're trying to put that into the rate case.

17 COMMISSIONER ELLIOTT: And I guess that leads
18 to my position here is that in my mind I don't find
19 that to be consistent with the Court's Order.

20 MR. KELLIHER: I've been wrong before, but I
21 would be comfortable going forward to defend this
22 portion of it.

1 COMMISSIONER ELLIOTT: It just seems a partial
2 step to me as opposed to the full --

3 ACTING CHAIRMAN FLORES: I think -- I mean,
4 look, we're dealing with a set of circumstances that
5 are a little out of the ordinary here. You also have
6 a rate case that is pending and that will also in
7 many ways determine, I think, part of the question --
8 answer part of the question that you have here.

9 And, so -- you know, and I understand
10 your position, Commissioner Elliott. I think it's a
11 good point and it's one in which we have to still
12 determine how -- I mean, part of the issue is trying
13 to figure out how this Appellate Court decision
14 affects this new program.

15 That being said, I feel comfortable
16 and I believe that Mr. Kelliher's analysis is
17 correct. So...

18 COMMISSIONER ELLIOTT: Well, I just would like
19 to point out that -- I mean, I voted to support this
20 program, and I do support the program and it's
21 unfortunate that the Court decision has put us into
22 this position. It's just that being in the position,

1 I'm unsure what my steps going forward are, and I'm
2 not sure -- this is not clear to me and doesn't feel
3 particularly comfortable as a stepping off point to
4 go further; but I'm not sure what other options there
5 are out there. But this one just seems to be -- in
6 my mind, just procedurally a little bit flawed.

7 ACTING CHAIRMAN FLORES: Look, I mean, I think
8 it's -- we are dealing here with -- we're dealing
9 here with, again, a set of circumstances that were
10 created by in large part an Appellate Court decision.
11 That being said, I think that everyone has analyzed
12 these issues and that this is not just simply being
13 treated in isolation because there is still a larger
14 pending rate case in this matter.

15 So what I'd like to do is -- you know,
16 I'd like to -- I'm going to be --

17 Is there any further discussion in
18 this matter?

19 COMMISSIONER O'CONNELL-DIAZ: I would like us
20 to vote on this today. I think it's pending. We
21 have the rate case pending. There's a schedule
22 there, and, you know, I agree these are different

1 kinds of circumstances. I believe that we've gotten
2 good counsel from our solicitor general, and --

3 COMMISSIONER ELLIOTT: Well, I agree and I
4 really want to thank John for that quick turnaround
5 and I don't feel any reason to hold this any further
6 either.

7 ACTING CHAIRMAN FLORES: Very well. So then is
8 there a motion to allow the Company special
9 permission?

10 COMMISSIONER O'CONNELL-DIAZ: So moved.

11 ACTING CHAIRMAN FLORES: Is there a second?

12 COMMISSIONER FORD: Second.

13 ACTING CHAIRMAN FLORES: It's been moved and
14 seconded.

15 All in favor, say "aye."

16 (Chorus of responses.)

17 ACTING CHAIRMAN FLORES: Any opposed?

18 COMMISSIONER ELLIOTT: No.

19 ACTING CHAIRMAN FLORES: "No" you're not
20 opposed, or "no" you're voting "no"?

21 COMMISSIONER ELLIOTT: I am opposed.

22 ACTING CHAIRMAN FLORES: Okay. Very well. So

1 let's take a roll call.

2 Commissioner Ford?

3 COMMISSIONER FORD: Aye.

4 ACTING CHAIRMAN FLORES: Commissioner

5 O'Connell-Diaz?

6 COMMISSIONER O'CONNELL-DIAZ: Aye.

7 ACTING CHAIRMAN FLORES: Commissioner Elliott?

8 COMMISSIONER ELLIOTT: No.

9 ACTING CHAIRMAN FLORES: Commissioner Colgan?

10 ACTING COMMISSIONER COLGAN: Aye.

11 ACTING CHAIRMAN FLORES: Chairman Flores votes

12 "aye."

13 Let the record reflect that it's 4-1

14 to allow the Company special permission request.

15 I also want to make a note, though,

16 that in terms of the -- we want to be clear on

17 this -- that the recovery of contested AMI operating

18 expenses will still be reviewed by the Commission as

19 part of ComEd's rate case. Okay. So I think it's

20 important to note on that.

21 COMMISSIONER O'CONNELL-DIAZ: Well, and just to

22 be clear, the original plan that we had when we

1 entered the Order that is now in the Appellate Court,
2 there were no costs that were going to be given to
3 the Company without a prudency review. So it's a
4 question of -- again, of timing or which way do you
5 recover, in a rate case or in a rider? We voted on
6 many riders today. I would suggest that that
7 Appellate Court opinion puts those under a fish eye,
8 too.

9 So, you know, there was never this
10 blank check that seems to be kind of out there that
11 we were -- the Commission was going to let the
12 Company run away with the total cookie jar. So
13 you're correct in that these will be included and
14 they will be looked at in the rate case, which,
15 again, brings up other issues because a rate case has
16 like 150,000 issues as opposed to a prudency hearing
17 which you just look at one particular cost.

18 So it's problematic and it's --

19 COMMISSIONER ELLIOTT: Well, I think that --

20 COMMISSIONER O'CONNELL-DIAZ: -- we all
21 struggle with it.

22 COMMISSIONER ELLIOTT: -- they could offer that

1 there's still a question of whether they'll be
2 reviewed in the rate proceeding as well. So...

3 COMMISSIONER O'CONNELL-DIAZ: How's that?

4 COMMISSIONER COLGAN: Well, I'd just like to
5 say that I think that this is -- I'm not sure that
6 there is a real clear one answer to move forward on
7 this. And, you know, we got kind of hit with a
8 situation where the Commission had approved a project
9 which is costly and it had approved a cost recovery
10 mechanism for it and so then they're out hanging with
11 all of these costs and how do they recover that.

12 And I know there's been a lot of
13 thinking gone into what is the proper cost recovery
14 for this approved project. And I think the special
15 permission request created a lot of confusion in
16 terms of, you know, what does it mean? How does all
17 this play out?

18 I know I've given it a lot of
19 consideration, and I think that we've probably
20 crafted the best interim step forward on this and
21 where it comes out, we'll have to see; but I would
22 hate to see the AMI project not going forward. And I

1 think it kind of challenges, doesn't it, some of the
2 traditional regulatory structures that we have in
3 place? I think there's a lot of brave new world
4 things happening. And if our rider approval
5 mechanisms are in doubt, our flexibility is really
6 kind of challenged. And so hopefully this will play
7 out to a positive outcome for everybody.

8 COMMISSIONER O'CONNELL-DIAZ: Well, just as an
9 aside if -- Commissioner Ford and I were here when we
10 entered that Order and one of the arguments for those
11 that were against the Smart Grid -- I'm going to call
12 it the pilot program -- one of the arguments was that
13 it all should be in a rate case. Well, it's in a
14 rate case now. So they've gotten what they wanted.

15 However, you know, unlike Maryland
16 where they came in with this huge, huge program that
17 was extremely expensive and -- that's not what we did
18 in Illinois. We said, We need to take baby steps and
19 we need to be foundational and that's what we did.
20 And I -- to this moment I believe it was the right --
21 we are looked at as the number one leader in the
22 United States, maybe even in the world as to how to,

1 you know, move that ball forward in a way that's
2 responsible to our ratepayers, responsible to the
3 information that we need to understand. And without
4 us having this type of a vehicle, I really don't know
5 how one could -- we could have done a better job.

6 And, again, I go back to it's a
7 question of timing. Is it in the rate case or is it
8 in a rider where those costs would be looked at in a
9 very discrete way?

10 COMMISSIONER FORD: Also, if it had been a
11 rider, we possibly would not have looked at it as
12 cautiously as we're going to look at it now because
13 we would just -- it would have been service items.
14 And we wouldn't have had the internal audit and some
15 other subsequent expenses that we would have looked
16 at, in my opinion.

17 COMMISSIONER O'CONNELL-DIAZ: If it was in the
18 rider.

19 COMMISSIONER FORD: If it was in the rider.

20 COMMISSIONER O'CONNELL-DIAZ: So it's -- I
21 think we're kind of handed a bad set of cards, that
22 we're trying to make the best hand we can out of it,

1 but our Smart Grid Program is something that our
2 Commission and our state can be very proud of. So...

3 ACTING CHAIRMAN FLORES: Thank you all.

4 I'd like to go back though to going
5 forward on the remainder of the agenda to the most
6 favorable vote, which is 5-0 in moving forward.

7 Turning now to the gas. Item G-1,
8 10-0683 through 10-0693, concerns reconciliations
9 surrounding gas adjustment cost charges. Staff
10 recommends entry of an Order initiating gas
11 adjustment clause reconciliation proceedings for the
12 many utilities statewide that had purchased gas
13 adjustment clauses during 2010.

14 Is there any discussion?

15 (No response.)

16 ACTING CHAIRMAN FLORES: Any objections?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Hearing none, the
19 Order is entered and the PGA reconciliation
20 proceedings are initiated.

21 Item G-2 is Docket No. 09-084 --
22 excuse me. It's Docket 09-0184. This item is

1 Dominion Retail's Petition For Confidential Treatment
2 of its 2008 Report made pursuant to Title 83, Part
3 551, of the Administrative Code. Administrative Law
4 Judge Kimbrel recommends entry of an Order dismissing
5 the petition without prejudice for want of
6 prosecution.

7 Any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the
12 docket is dismissed.

13 Item G-3 is Docket No. 10-0429. This
14 is Jacqueline Yurs's complaint as to billing and/or
15 charges against Nicor. The parties have apparently
16 settled their differences and brought a Joint Motion
17 to Dismiss, which Administrative Law Judge Hilliard
18 recommends that we grant.

19 Is there any discussion?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Any objections?

22 (No response.)

1 ACTING CHAIRMAN FLORES: Hearing none, the
2 docket is dismissed.

3 Item G-4 is Docket No. 10-0534. This
4 is Andeljko Franceski's complaint as to billing
5 and/or charges against Peoples Gas. The parties have
6 apparently settled their differences and brought a
7 Joint Motion to Dismiss, which Administrative Law
8 Judge Kimbrel recommends that we grant.

9 Any discussion?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Any objections?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Hearing none, the
14 docket is dismissed.

15 Item G-5 is Docket No. 10-0562. This
16 item concerns Nicor's Petition for Interlocutory
17 Review concerning a ruling on a motion to exclude
18 testimony regarding recovery of fixed cost charges in
19 the Company's energy efficiency case. Administrative
20 Law Judge Kimbrel recommends that the Commission rule
21 to deny the relief requested in Nicor's Petition for
22 Interlocutory Review.

1 Any discussion?

2 (No response.)

3 ACTING CHAIRMAN FLORES: Very well. Any
4 objections?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Hearing none, the
7 company's petition is denied.

8 Telecommunications Item T-1, is Docket
9 No. 09-0512. This is Grasshopper Group's Application
10 for a Certificate of Interexchange Authority to
11 Operate as a Reseller of Telecommunications Services
12 throughout Illinois. Administrative Law Judge Benn
13 recommends entry of an Order granting the requested
14 Certificate of Service Authority.

15 Any discussion?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Any objections?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Hearing none, the
20 Order is entered and the certificate is granted.

21 Item T-2 is Docket No. 10-0074. This
22 is Call Select USA's application for a Certificate of

1 Interexchange Authority to Operate as a
2 Facility-Based Carrier of Telecommunications Services
3 in Illinois. The Company seeks to withdraw its
4 application and Administrative Law Judge Benn
5 recommends that the Commission grant the company's
6 motion and dismiss this docket without prejudice.

7 Is there any discussion?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Any objections?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Hearing none, the
12 docket is dismissed.

13 Item T-3 is Docket No. 10-0406. This
14 is XYN Communications of Illinois's Application for
15 Certificates of Local and Interexchange Authority to
16 Operate as a Facility-Based Carrier of
17 Telecommunications Services in Illinois.
18 Administrative Law Judge Benn recommends the
19 Commission enter an Order granting the certificates.

20 Is there any discussion?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Any objections?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Hearing none, the
3 Order is granted and the certificates are granted.

4 Item T-4 is Docket No. 10-0542. This
5 is Assurance Home Phone Service's Application for a
6 Certificate of Local Authority to Operate as a Resale
7 and Facilities-Base/UNE Carrier of Telecommunications
8 Services in Illinois. Administrative Law Judge
9 Teague recommends that the Commission enter an Order
10 granting the requested certificates.

11 Is there any discussion?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Any objections?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Hearing none, the
16 Order is entered and the certificates are granted.

17 Item T-5 is Docket No. 10-0548. This
18 is Fidelity Communications Services III's Application
19 for Certificates of Local and Interexchange Authority
20 to Operate as a Facilities-Based Carrier of
21 Telecommunication Services in Illinois.

22 Administrative Law Judge Teague recommends that the

1 Commission enter an Order granting the requested
2 certificates.

3 Is there any discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Any objections?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Hearing none, the
8 Order is entered and the certificates are granted.

9 Item T-66 is Docket No. 10-0488. This
10 is TON Services' Petition for the Cancellation of its
11 Certificate of Service Authority to Provide
12 Telecommunications Services on an Interexchange
13 Basis, to Provide Pay Telephone Service, and to
14 Provide Prepaid Calling Service in Illinois that had
15 been previously issued by the Commission.
16 Administrative Law Judge Teague recommends the
17 Commission enter an Order granting the petition and
18 canceling the certificates.

19 Is there any discussion?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Any objections?

22 (No response.)

1 ACTING CHAIRMAN FLORES: Hearing none, the
2 Order is entered and the certificates are canceled.

3 Items T-7 is Docket No. 10-0498. This
4 is ITI Inmate Telephone's Petition for Cancellation
5 of its Certificate of Service Authority to Provide
6 Competitive Telecommunication Services on an
7 Interexchange Basis in Illinois issued in Docket
8 No. 04-0418. Administrative Law Judge Teague
9 recommends that the Commission enter an Order
10 granting the petition and canceling the certificate.

11 Any discussion?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Any objections?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Hearing none, the
16 Order is entered and the certificate is canceled.

17 Item T-8 is Docket No. 10-0518. This
18 is Dialaround Enterprises' Petition to cancel its
19 Certificate of Service Authority previously issued in
20 Docket 02-0347 and its Certificate of Prepaid Calling
21 Service Provider Authority previously issued in
22 Docket 06-0204. Administrative Law Judge Teague

1 recommends that the Commission enter an Order
2 granting the petition and canceling the certificates.

3 Is there any discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Any objections?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Hearing none, the
8 Order is entered and the certificates are canceled.

9 Items T-9 through T-14 can be taken
10 together. Each of these items each involve joint
11 petitions surrounding resale and interconnection
12 agreements under 47 U.S.C. 252. In each docket the
13 Administrative Law Judge recommends entering an Order
14 approving a new agreement or amending an existing
15 agreement.

16 Is there any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the
21 Orders are entered.

22 Items T-15 and T-16, 10-0694 and

1 10-0695, can be taken together. These items concern
2 potential citation proceedings against DNA
3 Communications and CMC Telecom. The citations are to
4 determine whether the companies possess the requisite
5 managerial resources to provide intrastate
6 telecommunication services in Illinois and whether
7 penalties should be assessed for failure to comply
8 with reporting requirements. In each case, Staff
9 recommends entry of an Order initiating the citation
10 proceeding.

11 Is there any discussion?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Any objections?

14 (No response.)

15 ACTING CHAIRMAN FLORES: Hearing none, the
16 Initiating Orders are entered.

17 Item T-17 is Docket No. 09-0315. This
18 item concerns an investigation into whether the
19 intrastate access charges charged by McLeodUSA
20 Telecommunications Services d/b/a PAETEC Business
21 Services are just and reasonable. In light of Senate
22 Bill 107 from this past legislative session,

1 Administrative Law Judge Benn recommends that the
2 Commission dismiss this docket as being statutorily
3 moot.

4 Any discussion?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Any objections?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Hearing none, the
9 docket is dismissed.

10 Item T-18 and T-19 can be taken
11 together. These items concern citation proceedings
12 against Tele-Reconnect, Incorporated, and U.S. Fiber,
13 LLC, for failure to file 2009 Annual Reports. In
14 each case, Administrative Law Judge Teague recommends
15 that the Commission enter an Order revoking the
16 Company's Certificate of Service Authority.

17 Any discussion?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Any objections?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Hearing none, the
22 Orders are entered and the certificates are revoked.

1 Moving to the Water and Sewer portion
2 of today's agenda. Item W-1 is Docket No. 10-0194.
3 This item concerns Aqua Illinois's proposed rate
4 increase for its Kankanksee Water Division.
5 Administrative Law Judges Hilliard and Benn recommend
6 that the Commission enter an Order reflecting a 17.55
7 percent increase in water rates.
8 Any discussion?
9 (No response.)
10 ACTING CHAIRMAN FLORES: Is there a motion to
11 enter the Order?
12 COMMISSIONER O'CONNELL-DIAZ: So moved.
13 ACTING CHAIRMAN FLORES: Is there a second?
14 COMMISSIONER FORD: Second.
15 ACTING CHAIRMAN FLORES: It's been moved and
16 seconded.
17 All in favor, say "aye."
18 (Chorus of ayes.)
19 ACTING CHAIRMAN FLORES: Any opposed?
20 (No response.)
21 ACTING CHAIRMAN FLORES: The vote is 5-0 and
22 the Order is entered.

1 Item W-2 is Docket No. 10-0197. This
2 is Aqua Illinois' petition for approval of its
3 reconciliation of its purchased water surcharge.
4 Administrative Law Judge Kimbrel recommends that the
5 Commission enter an Order approving the
6 reconciliation of purchased water costs and revenues.
7 Is there any discussion?
8 (No response.)
9 ACTING CHAIRMAN FLORES: Any objections?
10 (No response.)
11 ACTING CHAIRMAN FLORES: Hearing none, the
12 Order is entered.
13 We have one miscellaneous matter.
14 Item M-1, 10-0696, concerns the appointment of
15 representatives to the Underground Damage Prevention
16 Advisory Committee. Specifically, before us today
17 are the appointments for representatives of JULIE,
18 the general public and the excavators. Staff
19 recommends that the Commission adopt a resolution
20 which reappoints Mr. Scott Bertulis as the general
21 public representative, reappoints Mr. Mark Frost as
22 the JULIE representative and appoints Mr. Paul Jansyn

1 as the excavator representative.

2 Any discussion?

3 (No response.)

4 ACTING CHAIRMAN FLORES: Any objections?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Hearing none, the

7 resolution is adopted and Mr. Bertulis, Mr. Frost and

8 Mr. Jansyn are appointed to the Committee.

9 And thank you very much, gentlemen,

10 for your service.

11 There are two final items today

12 concerning pending litigation so we will go into

13 closed session to address them.

14 I will make a motion to go into closed

15 session.

16 Is there a second?

17 COMMISSIONER FORD: Second.

18 COMMISSIONER O'CONNELL-DIAZ: Second.

19 ACTING CHAIRMAN FLORES: It's been moved and

20 seconded.

21 All in favor, say "aye."

22 (Chorus of ayes.)

1 ACTING CHAIRMAN FLORES: Any opposed?

2 (No response.)

3 ACTING CHAIRMAN FLORES: The vote is 5-0 to go
4 into closed session.

5 (Whereupon at this point Pages
6 35-49 of the proceedings are
7 contained in a separate closed
8 transcript.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22

1 CONTINUATION OF PROCEEDINGS

2 ACTING CHAIRMAN FLORES: In closed session the
3 Commission discussed the ongoing appellate litigation
4 surrounding its Order in Docket No. 07-0566.

5 The Commission also discussed filing
6 Comments with FERC in FERC Docket No. ER11-2104-000.

7 I will make a motion to file the
8 Comments with FERC.

9 Is there a second?

10 COMMISSIONER FORD: Second.

11 ACTING CHAIRMAN FLORES: It's been moved and
12 seconded.

13 All in favor, say "aye."

14 (Chorus of ayes.)

15 ACTING CHAIRMAN FLORES: Any opposed?

16 (No response.)

17 ACTING CHAIRMAN FLORES: The vote is 5-0. The
18 Comments will be filed with FERC.

19 Judge Wallace, your Honor, are there
20 any other matters to come before the Commission
21 today?

22 JUDGE WALLACE: No, there aren't, Mr. Chairman.

1 ACTING CHAIRMAN FLORES: Very well. Thank you,
2 sir.

3 Hearing none, this meeting stands
4 adjourned. Thank you, everybody.

5 MEETING ADJOURNED

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22